

§ 346.1

12 CFR Ch. III (1–15 Edition)

SOURCE: 79 FR 42185, July 21, 2014, unless otherwise noted.

§ 346.1 Purpose and scope of this part.

(a) *General.* This part implements section 711 of the Gramm-Leach-Bliley Act (12 U.S.C. 1831y). That section requires any nongovernmental entity or person, insured depository institution, or affiliate of an insured depository institution that enters into a covered agreement to—

(1) Make the covered agreement available to the public and the appropriate Federal banking agency; and

(2) File an annual report with the appropriate Federal banking agency concerning the covered agreement.

(b) *Scope of this part.* The provisions of this part apply to—

(1) State nonmember insured banks;

(2) Subsidiaries of state nonmember insured banks;

(3) Nongovernmental entities or persons that enter into covered agreements with any company listed in paragraphs (b)(1), (2), (4) and (5) of this section.

(4) State savings associations; and

(5) Subsidiaries of State savings associations.

(c) *Relation to Community Reinvestment Act.* This part does not affect in any way the Community Reinvestment Act of 1977 (12 U.S.C. 2901 *et seq.*) or the FDIC's Community Reinvestment regulation found at 12 CFR part 345, or the FDIC's interpretations or administration of that Act or regulation.

(d) *Examples.* (1) The examples in this part are not exclusive. Compliance with an example, to the extent applicable, constitutes compliance with this part.

(2) Examples in a paragraph illustrate only the issue described in the paragraph and do not illustrate any other issues that may arise in this part.

§ 346.11 Other definitions and rules of construction used in this part.

(a) *Affiliate.* “Affiliate” means—

(1) Any company that controls, is controlled by, or is under common control with another company; and

(2) For the purpose of determining whether an agreement is a covered agreement under § 346.2, an “affiliate”

includes any company that would be under common control or merged with another company on consummation of any transaction pending before a Federal banking agency at the time—

(i) The parties enter into the agreement; and

(ii) The NGEF that is a party to the agreement makes a CRA communication, as described in § 346.3.

(b) *Control.* “Control” is defined in section 2(a) of the Bank Holding Company Act (12 U.S.C. 1841(a)).

(c) *CRA affiliate.* A “CRA affiliate” of an insured depository institution is any company that is an affiliate of an insured depository institution to the extent, and only to the extent, that the activities of the affiliate were considered by the appropriate Federal banking agency when evaluating the CRA performance of the institution at its most recent CRA examination prior to the agreement. An insured depository institution or affiliate also may designate any company as a CRA affiliate at any time prior to the time a covered agreement is entered into by informing the NGEF that is a party to the agreement of such designation.

(d) *CRA public file.* “CRA public file” means the public file maintained by an insured depository institution and described in 12 CFR 345.43.

(e) *Executive officer.* The term “executive officer” has the same meaning as in § 215.2(e)(1) of the Board of Governors of the Federal Reserve System's Regulation O (12 CFR 215.2(e)(1)).

(f) *Federal banking agency; appropriate Federal banking agency.* The terms “Federal banking agency” and “appropriate Federal banking agency” have the same meanings as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).

(g) *Fiscal year.* (1) The fiscal year for a NGEF that does not have a fiscal year shall be the calendar year.

(2) Any NGEF, insured depository institution, or affiliate that has a fiscal year may elect to have the calendar year be its fiscal year for purposes of this part.

(h) *Insured depository institution.* “Insured depository institution” has the same meaning as in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813).